

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

JORGE FONSECA and REYES ANDON, on behalf
of themselves and others similarly situated,

Plaintiffs,
v.

DIRCKSEN & TALLEYRAND INC. d/b/a RIVER
CAFÉ and MICHAEL "BUZZY" O'KEEFE,

Defendants.

USDC SDNY
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ELECTRONICALLY FILED
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DATE FILED: 1/6/16

13 CV 5124 (AT)

IT IS HEREBY STIPULATED AND AGREED by and between the undersigned counsel that:

1. Pursuant to Fed. R. Civ. P. 15(a)(2), Defendants hereby give their written consent to the Plaintiffs to file, on or before March 19, 2016, an Amended Complaint in the above-captioned matter which shall include additional claims under N.Y. Lab. Law § 195(1) and (3).
2. Plaintiffs agree that the filing of the Amended Complaint will not trigger Fed. R. Civ. P. 15(c) and that N.Y. Lab. Law § 195(1) and (3) claims of any future Rule 23 class members will only relate back to the date of the filing of the Amended Complaint.
3. Defendants' Counsel agrees to accept service of the Amended Complaint as of the date that the Amended Complaint is filed on ECF.
4. Plaintiffs will file the N.Y. Lab. Law §§ 195(1) and (3) claims on behalf of the Fed. R. Civ. P. 23 class that has already been certified by the Court. However, unless otherwise stipulated by the Parties, Plaintiffs will be required to move the Court to certify the class pursuant to Fed. R. Civ. P. 23 after the filing of the Amended Complaint.
5. Defendants reserve their rights to oppose any motion for Fed. R. Civ. P. 23 class certification and to move for summary judgment on Plaintiffs' N.Y. Lab. Law § 195(1) and (3) claims.

6. Defendants shall produce (1) any and all wage notices for each and every Fed. R. Civ. P. 23 class members, and (2) any and all documents that Defendants intend to rely on as an affirmative defense to Plaintiffs anticipated allegation that Defendants violated N.Y. Lab. Law §§ 195(1) and (3).

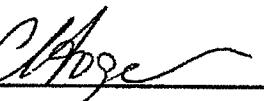
Dated: January 6, 2015

By: 

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Attorneys for Plaintiffs

Dated: December 18, 2015

By: 

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Attorneys for Defendants

SO ORDERED.

Dated: January 6, 2016
New York, New York



ANALISA TORRES
United States District Judge